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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/576,108	07/17/2006	Oddvin Reiso	2006_0560A	1717

513 7590 04/06/2011  
WENDEROTH, LIND & PONACK, L.L.P.  
1030 15th Street, N.W.,  
Suite 400 East  
Washington, DC 20005-1503

EXAMINER
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YANG, JIE

ART UNIT	PAPER NUMBER
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1733

NOTIFICATION DATE	DELIVERY MODE
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04/06/2011

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ddalecki@wenderoth.com  
coa@wenderoth.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/576,108	<b>Applicant(s)</b> REISO ET AL.	
	<b>Examiner</b> JIE YANG	<b>Art Unit</b> 1733	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 28 February 2011.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 5,7 and 8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 5,7 and 8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

Claims 1-4 and 6 have been cancelled, claims 5, 7, and 8 has been amended; and claims 5, 7, and 8 remain in examination. Claim 5 is an independent claim. There is no amendment after previous office action marked 12/16/2010.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5, 7, and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parson et al (US 6,440,359 B1, thereafter, US'359) in view of Ohyama et al (US 6,355,090 B1, thereafter US'090).

US'359 in view of US'090 is applied to claims 5, 7, and 8 for the same reason as stated in the previous office action marked 12/16/2010.

### ***Response to Arguments***

Applicant's arguments with respect to claims 5, 7, and 8 filed on 2/28/2011 have been fully considered but they are not persuasive.

The Applicant's arguments are summarized as following:

1) US'359 does not disclose or suggests the higher Mn content reduces the number of coarse  $Mg_2Si$  particles in the billets after homogenization;

2) US'359 does not teach a content of Mg of 0.35-0.5wt% and US'395 teaches away from an Mg content above 0.34wt%.

3) US'090 discloses an alloy that is completely different from the alloy of claim 5, and one of ordinary skill in the art would not have been motivated to combine US'090 with US'359.

In response,

Regarding the argument 1) as pointed out in the previous office action marked 12/16/2010, US'359 teaches adding 0.02-0.15wt%Mn in the alloy (claim 1 of US;395), which overlaps the claimed 0.03-0.06 wt% Mn as recited in the instant claim 5. The Examiner further notes that US'359 provides samples including 0.03wt%Mn and 0.06 wt%Mn (Fig.10-13 and table 1 and 3 of US'359), which is within the claimed range of 0.03-0.06 wt% Mn as recited in the instant claim 5. Therefore, the property of the higher Mn content (0.03-0.06wt%Mn) reduces the number of coarse  $Mg_2Si$  particles in the billets after homogenization would inherently exist in the alloy of US'295. MPEP 2112.III&IV. Furthermore, the Examiner notes that the property of a higher Mn content (0.03-0.06wt%Mn) reduces the number of coarse  $Mg_2Si$  particles in the billets after homogenization is not includes in the limitation of the instant claims.

Regarding the argument 2) US'359 teaches preferably to add 0.20-0.34wt%Mg in the alloy (claim 1 of US'359), which overlaps the preferable Mg range of 0.3-0.5wt%Mg as recited in the instant invention (Abstract and composition list on page 2 of

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the instant specification). US'359 provides comparing samples with different Mg contents (0.24-0.48wt%Mg) (Fig.2, 4, 6, and 7; and table 1-3 of US'395), which includes samples with Mg contents within the claimed Mg range. The examiner notes the Applicant has not provided any evidence to show the criticality of Mg range to the claimed aluminum alloy. Furthermore, although US'395 teaches extrusion pressure increasing with the Mg content and set the upper limit 0.34wt%Mg, the instant application has not provided any evidence to show contrary results.

Regarding the argument 3) the Examiner disagrees with the applicant's argument because as pointed out in the previous office action marked 12/16/2010, US'090 teaches an aluminum alloy for automotive parts by extruded operation (Abstract, Col.11, lines 45-63, and table 3-4 of US'090). The major composition ranges disclosed by US'090 (Col.2, line 39 to col.3, line 56, and claims 5-8 of US'090) overlap the composition ranges of the instant invention. US'090 teaches adding 0.2-5.0wt%Mg in the alloy and more preferably adding 0.25-0.5wt%Mg in the alloy (Col.6, lines 29-30 of US'090), which overlaps the claimed range of 0.35-0.5wt%Mg as recited in the instant claim. Both US'090 and US'395 the similar aluminum alloy for extrusion application as recited in the instant invention. There is no support for the argument that US'090 is a completely different alloy. Furthermore, US'090 teaches the proper amount of Mg can enhance the strength of an aluminum wrought alloy (Col.6, lines 44-50 of US'090), which provides good motivation for combining US'090 with US'395.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jie Yang whose telephone number is 571-270-1884. The examiner can normally be reached on M-F, 7:30-5:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Cleveland can be reached on 571-272-1418. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

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For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JY

/ Roy King/  
Supervisory Patent Examiner, Art Unit 1733